



# Supreme Court of Wisconsin

BOARD OF BAR EXAMINERS  
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## Annual Report - 2006

### MEMBERSHIP AND STAFFING OF THE BOARD

The Board of Bar Examiners has general supervisory authority over the administration of admission to the bar by examination and on reciprocity, conducts character and fitness investigations of all candidates for admission, including those seeking admission by diploma privilege, and supervises and monitors attorneys' compliance with the Wisconsin mandatory continuing legal education requirement.

The membership of the Board in 2006 was as follows:

Hon. Charles H. Constantine	Racine	Chairperson
James A. Morrison	Marinette	Vice-Chairperson
Mark J. Baker	Chippewa Falls	
Thomas M. Boykoff	Madison	
Glenn E. Carr	Chicago	
Dennis A. Danner	Franklin	
Carolyn Milanes Dejoie	Madison	
James L. Huston	Whitefish Bay	
Joseph D. Kearney	Milwaukee	
Kevin M. Kelly	Madison	
Mary Beth Keppel	Madison	

In March, John E. Kosobucki was appointed by the Court as the new Director. He officially commenced work on April 24.

Members Danner, DeJoie, and Kelly completed their terms on the Board on December 31 and received appropriate recognition for their service

The Board met six times in Madison and one time in Racine. The December meeting included a joint meeting with the Court at which policy matters of common concern were discussed. Additionally, the attorney members of the Board graded two bar examinations.

In 2006 the staff of the Board included the following persons:

**Board:** Charles H. Constantine, Chairperson, Racine; James A. Morrison, Vice-Chairperson, Marinette; Mark J. Baker, Chippewa Falls; Thomas M. Boykoff, Madison; Glenn E. Carr, Chicago; Steven T. Clark, DeForest; Linda Hoskins, Madison; James L. Huston, Whitefish Bay; Joseph D. Kearney, Milwaukee; Mary Beth Keppel, Madison; John Pray, Madison

John E. Kosobucki	Director (from April 24)
Ruth Janto-Wolter	Deputy Director
Jill Remy	Bar Application Manager (Bar Exam)
April Stegmann	Bar Application Manager (Diploma Privilege)
Ben Hopkins	Character and Fitness Investigator/AFL Manager
Tammy McMillen	CLE Records Manager
Dianne Knipfer	Course Approval coordinator (75%)
Toni Gilbertson	Program Assistant

## **FUNDING SOURCES AND EXPENDITURES**

The mandatory continuing legal education requirement was self-funded in fiscal year 2006 by an annual assessment of lawyers on active and inactive status as of July 1, 2006, per State Bar of Wisconsin records, who paid \$13.00 and \$6.50, respectively.

The bar admissions portion of Board responsibilities continued to be entirely self-funded as well. The fees authorized by the Court were set September 1, 2000. For taking the Wisconsin Bar Examination (WBE), the fee was set at \$450; for filing an application for admission on proof of practice elsewhere (reciprocity), the fee was set at \$850; for diploma privilege character and fitness (C&F) certification, the fee was set at \$210. Late fees were charged for late filings of WBE (\$200) and C&F (\$100) applications. The admission fee for all modes was set at \$100; and late fees for admissions were set at \$200. The application fee for change of name was set at \$25.

In addition, the Board realized revenue from late filing fees and reinstatement fees authorized by the court, and from miscellaneous fees (copying, duplicate admission certificates, past examination sales, etc.).

Revenues shown are actual revenues; they include all late filing fees and include 2007 fees received in 2006.

### **Revenues**

Licensing Activity	\$510,039.00
Education Activity	<u>261,814.00</u>

<b><u>Total CY 2006 Revenues</u></b>	<b>\$771,853.00</b>
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### **Expenditures**

Permanent Salaries	\$321,353.00
LTE Salaries	9,913.00
Fringe Benefits	128,116.00
Supplies, Services, and Capital	<u>205,996.00</u>

<b><u>Total CY 2006 Expenditures</u></b>	<b>\$665,378.00</b>
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## **MANDATORY CONTINUING LEGAL EDUCATION**

The 2006 calendar year was the year in which reports concerning compliance with the 2005-2006 Wisconsin mandatory continuing legal education (CLE) requirement, including the legal ethics and professional responsibility (EPR) requirement, were collected. Seven thousand nine hundred forty-six (7,946) lawyers admitted to practice law in Wisconsin in even-numbered years were obligated to comply with the attendance and/or reporting requirement. One hundred seven (107) lawyers were suspended for non-compliance with the CLE requirement in 2006 for the 2004-2005 reporting cycle, and, of the 3,243 lawyers who have been suspended for non-compliance since the inception of the program in 1977, 1,695 remained suspended at the end of calendar 2006.

In 2006, lawyers again had a wide range of educational activities from which to select. General Program Approval (GPA), the annual institutional approval available to CLE sponsors, was extended to 39 organizations, a decrease of 1 from the previous year. In addition, 7,098 activities were approved on a course-by-course basis which was a decrease of 20.9% from the previous year. Two thousand seven hundred forty-seven (2,747) activities were approved for ethics and professional responsibility (EPR), an increase of 2.8 %. Thirty-six (36) Judicial Education courses were approved, the same as the previous year. The Board began to grant approval to *Guardian ad litem* (GAL) courses in 1999, and approved a total of 118 courses for GAL credit in 2006, which was a decrease of 35.1% from the previous year. Of that total, 85 courses were GAL for Minors courses. The Board began approving GAL courses under Supreme Court Rules, Chapter 36, Eligibility for Appointment as Guardian Ad Litem for an Adult, on July 1, 2004, and approved 33 courses for GAL credit under this Chapter in 2006.

The total number of all CLE activities sited in Wisconsin was 3,559, a decrease of 4.8% from the previous year. Approval was denied in 52 cases (down from 105 in the previous year), and EPR approval was denied in 317 cases (down from 356 in 2005). The principal reason for denial of approval was the failure to have a continuous hour of EPR as required by SCR 31.07(5) or not meeting the objective of increasing an attendee's professional competence as an attorney as required by SCR 31.07(2)(a) or (b).

In December 2005 the Board submitted a petition to the Supreme Court regarding a change to Chapter 31 which would include "on demand online" courses as a means of obtaining CLE credit. "On demand online" courses are previously approved courses which are subsequently available for viewing over the internet at a date and time of the attorney's choosing. The "on demand online" courses are approved separately for a 12-month period. A maximum of 10 credits of on demand online courses can be used during any two-year reporting period, and such courses can not be used to satisfy the Ethics and Professional Responsibility (EPR) requirements. Additionally on demand online courses can not be used for reinstatement, readmission, or reactivation purposes. The petition also provided limited CLE credit for service on the Office of Lawyer Regulation district committees. The Board worked with the State Bar on minor revisions to certain language of the petition. A public hearing on the petition was held in December 2006 at which Director Kosobucki appeared as did members of the State Bar. The Court adopted the petition effective January 29, 2007.

The Board met with members of the State Bar, including State Bar President Steve Levine, to discuss a proposal for “comity” as pertains to CLE reporting. The State Bar reported that non-resident attorneys were having difficulty in obtaining approval for courses conducted in their home jurisdictions. Additionally, attorneys licensed in numerous jurisdictions reported having to comply with different reporting procedures in the multiple jurisdictions. A comity provision would permit a non-resident Wisconsin-licensed attorney to report compliance with his home jurisdiction’s requirements and use such compliance to meet the Wisconsin requirements. The Board studied the CLE requirements in the various jurisdictions. Most had similar requirements to Wisconsin’s. However, some jurisdictions allowed CLE credit for such activities as service in state legislatures, service on various committees and commissions, and giving presentations to school or community groups, among others; such activities would not be eligible for CLE credit in Wisconsin. The Board considered the comity issue and agreed in principle to comity so long as credit was given for activities that were substantially similar to Wisconsin’s in duration, mode of presentation, and included an EPR element. The Rules Committee of the Board drafted proposed language for a comity rule and presented the proposal to the State Bar for review. After further discussion the State Bar’s Board of Governor’s approved the proposed language. It is anticipated that a petition will be submitted to the Court sometime in 2007.

### **MISCELLANEOUS ACTIONS**

The Board also carried out the following actions, granting, denying, or accepting withdrawals, as appropriate:

Reinstatements (other than SCR Chapter 31)	34
Chapter 31 reinstatements	35
Readmission following voluntary resignation from the bar	0
Name changes	97

### **ADMISSION TO THE PRACTICE OF LAW**

#### **Diploma Privilege**

The Board received 522 applications for character and fitness certifications from prospective graduates of the University of Wisconsin and Marquette University law schools under SCR 40.03 and 40.06. This represents a 10.8% increase over the 471 applications filed in the previous year. Four hundred seventy-four (474) were certified to the Court and admitted in 2006, which number includes those who graduated in prior years but who were not certified nor admitted until 2006. This represents an 8.7% increase over the 436 applicants admitted in the previous year.

No applicants withdrew their application. Six (6) applicants’ files were closed for lack of response. Five (5) applicants failed to complete their files within one year after filing as required by Appendix BA 6.06 to Supreme Court Rules (SCR) Chapter 40. One applicant failed to be sworn in within a year of certification as required by SCR 40.09(1).

An applicant whose application had been closed for inactivity filed an action in federal district court. The litigation is ongoing.

## **Wisconsin Bar Examination**

The Board administered two bar examinations in 2006 to a total of 329 applicants. This represents a 10.4% increase from the 298 applicants in the previous year. Statistical information is as follows:

<u>2006 Wisconsin Bar Examinations</u>	<u>Feb. 06</u>	<u>July 06</u>	<u>Total</u>
Applicants Writing Examination	124	205	329
Successful Examinees	87 (70%)	171 (83%)	258 (78%)
First-Time Takers	97	183	280
Successful First-Time Takers	72 (74%)	157 (86%)	229 (82%)

An applicant who passed the bar exam in a previous year but who was not certified for admission had appealed the Board's decision to the Supreme Court. Oral arguments were held in April. The Court reversed the Board and remanded the matter to the Board for further consideration. The Board ultimately certified the applicant for admission. Another applicant who was initially issued an Intent to Deny Certification letter was ultimately cleared by the Board.

## **Admission on Reciprocity**

In addition, the Board administered the rules for admission on reciprocity. In 2006 the Board received one hundred thirteen (113) applications under SCR 40.05, an increase of 27% over the previous year. One hundred thirteen (113) applicants were certified for admission in 2006 although some were from applications received in the previous year. One hundred two (102) applicants were admitted in 2006 (some from previous years). There were eighteen withdrawals or closures of applications in the year: six (6) for failure to complete the application process within one year, four (4) were from applicants in non-reciprocal states, seven (7) applicants did not meet the requirements for admission, and one (1) application was closed by Board action.

## **Actual Admission**

<u>Type of Admission</u>	<u>Year of Admission</u>					<u>Change Since 2002</u>
	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	
Admission by Examination	234	205	211	215	251	+7.3%
Admission on Reciprocity	76	87	66	69	102	+34.2%
Admission by Diploma Privilege	<u>463</u>	<u>430</u>	<u>412</u>	<u>436</u>	<u>474</u>	<u>+2.4%</u>
TOTAL	773	722	689	720	827	+7.0%

Board Chair Constantine, Member Boykoff, and Director Kosobucki served on a committee to consider conditional admission to the bar. The activities of the committee are ongoing.

### **Denial of admission**

The Board denies admission to the practice of law in Wisconsin by first notifying the applicant by letter that it intends to deny his or her admission, giving reasons therefor, and providing the applicant a copy of the materials upon which the Board based its decision. The applicant is provided a period in which to respond and, if desired, to request a hearing. A hearing is granted, according to Supreme Court Rule, only upon a showing that there are facts bearing on the applicant's case that cannot be presented in writing. On occasion the Board may order a hearing *sua sponte*. After receipt of the applicant's response and/or after hearing, the Board may then either clear the applicant or may issue Findings and Conclusions formally denying admission. An applicant who was denied admission may petition the Supreme Court for a review of the Board's adverse determination.

### **Other Activities**

Board staff visited the Marquette University and University of Wisconsin Law Schools to discuss the Character and Fitness application process with 3L law students. Staff also supported swearing-in ceremonies at the Supreme Court for successful bar exam applicants and graduates of both law schools in the state. Director Kosobucki also participated in the State Bar of Wisconsin Board of Governor meetings. Additionally, the Director attended several training sessions sponsored by the National Conference of Bar Examiners (NCBE). The Board staff coordinated with CCAP, the Court's information technology agency, to develop an online application form for bar admissions and a CLE reporting form.

Respectfully submitted,

John E. Kosobucki, Director  
Board of Bar Examiners

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